

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 2735 OF 1984

The Malegaon S.S. Karkhana Ltd. ... Plaintiff

VS.

A. R. Antulay and ors. ... Defendants

Mr. Satpute i/b. Satpute & Co., for Plaintiff .

Mr. R. N. Pai i/b. Denzil D'Mello for Defendant no.1.

CORAM: **D.G. KARNIK J.**

DATE: 15/6/2006

P.C.:

1. Learned counsel for Defendant no.1 orally prays permission to file written statement. Learned counsel for the Plaintiff strongly opposes and invites my attention to the decision of the Supreme Court rendered in Kailash vs. Nanhku and ors. reported in 2005 (2) Mh. L. J. 775 in which it is laid down that oral request should not be entertained. The delay in filing of the written statement must be explained on an affidavit. This has not been done. In the circumstances the oral request for permission to file written statement made, after 20 years, is rejected.
2. Counsel for Defendant no.1 points out that the Defendant

nos. 3, 4, 8, 9, 11 and 18 have died long ago. Their heirs have not been brought on record. Suit against Defendant nos. 3, 4, 8, 9, 11 and 18 stands abated.

3. None of the Defendants have filed their written statement. Suit against the other Defendants is decreed under Order 8 Rule 10 CPC., in terms of prayer clause (a).

(D.G. KARNIK J.)